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ARIZONA ATTORNEY GENERAL

Honorable James J. Sossaman  
Arizona House of Representatives  
State Capitol  
Phoenix, Arizona 85007

Dear Mr. Sossaman:

Thank you for your letter of January 21 inquiring whether the "one-man, one vote" principle would apply to school district elections held under Arizona law.

In 1970 the United States Supreme Court held in a case called Hadley v. Junior College District, 397 U.S. 50, that the general one-man, one-vote rule does apply to school districts. The Court stated:

"[A]s a general rule, whenever a state or local government decides to select persons by popular election to perform governmental functions, the Equal Protection Clause of the Fourteenth Amendment requires that each qualified voter must be given an equal opportunity to participate in that election, and when members of an elected body are chosen from separate districts, each district must be established on a basis that will insure, as far as is practicable, that equal numbers of voters can vote for proportionally equal numbers of officials. It is of course possible that there might be some case in which a State elects certain functionaries whose duties are so far removed from normal governmental activities and so disproportionately affect different groups that a popular election in compliance with

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. . . might not be required . . . .

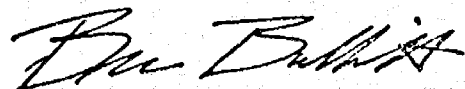
Education has traditionally been a vital governmental function, and these trustees, whose election the State has opened to all qualified voters, are governmental officials in every relevant sense of the term."

In more recent decisions, there has been some trend toward allowing some variance from the one-man, one-vote rule, provided that the variance can be justified by some policy such as the desire to follow local political boundaries. In a case called Mahan v. Howell, 410 U.S. 315, the Supreme Court approved a Virginia reapportionment plan which contained electoral districts that varied as much as sixteen percent from the ideal figure. The Court stated:

"The policy of maintaining the integrity of political subdivision lines in the process of reapportioning a state legislature, the policy consistently advanced by Virginia as a justification for disparities in population among districts that elect members to the House of Delegates, is a rational one. It can reasonably be said, upon examination of the legislative plan, that it does in fact advance that policy. The population disparities that are permitted thereunder result in a maximum percentage deviation that we hold to be within tolerable constitutional limits."

There is, however, language in the Mahan decision which suggests that the sixteen percent variation therein approved is pretty close to the maximum variance that might be approved. If you have any further questions, please feel free to give me a call.

Sincerely,



Bruce E. Babbitt  
Attorney General